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M.L.

Docket # PF-0379-1 DIV

Jc984 U.S. PTO
07/25/01

"Express Mail" mailing label number EL 856 155 858 US. I hereby certify that this document and referenced attachments are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, addressed to: Commissioner for Patents, Box Patent Application, Washington, D.C. 20231 on July 25, 2001

By:

Printed:

Nancy Ramos

Jc971 U.S. PTO
09/915694
07/25/01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REQUEST FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.53(b)**

Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

Dear Sir:

This is a request for filing a **DIVISIONAL** application under 37 CFR 1.53(b) of pending prior application Serial No.08/922,957, filed on September 3, 1997, entitled HUMAN MITOCHONDRIAL MALATE DEHYDROGENASE.

1. X Enclosed is a specification corresponding to the prior application, U. S. Application Serial No.08/922,957 filed September 3, 1997, including the oath or declaration as originally signed. The specification does not contain any subject matter that would have been new matter in the prior application.
2. X With regard to the requirement of 37 CFR 1.821(e) which requires that a copy of the Sequence Listing in computer readable form (CRF) be submitted, Applicants state that the paper copy of the Sequence Listing for the instant divisional application is identical with the computer readable form filed with Serial No. 08/922,957, filed September 3, 1997, to which priority is claimed. In accordance with 37 C.F.R. §1.821(e), please use the computer readable form filed with U.S. Application Serial No. 08/922,957 as the computer readable form for the instant divisional application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant divisional application.
3. X Cancel in this application original claims ~~19-27~~ and ~~30-45~~ before calculating the filing fee, without prejudice or disclaimer. Applicants submit that these claims were included in the application as filed in the interest of providing notice to the public of certain specific subject matter intended to be claimed, and are being canceled at this time in the interest of reducing filing costs. Applicants expressly state that these claims

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are not being canceled for reasons related to patentability, and are in fact fully supported by the specification as filed. Applicants expressly reserve the right to reinstate these claims or to add other claims during prosecution of this application or a continuation or divisional application. Applicants expressly do not disclaim the subject matter of any invention disclosed herein which is not set forth in the instantly filed claims.

4. X The inventors of the invention being claimed in this application are: Olga Bandman, Neil C. Corley, and Purvi Shah.
5. X In accordance with 37 CFR 1.63(d) a copy of the originally signed declaration showing applicant's/applicants' signature(s) as filed on December 29, 1997 is enclosed.
6. Amend the specification by inserting after the title:
7. X The filing fee is calculated below:

| Claims | Number Filed | Minus | Number Extra | Other Than Small Entity | | Basic Fee |
|--|--------------|-------|--------------|-------------------------|-----|-----------|
| | | | | Rate | Fee | \$710.00 |
| Total Claims | 20 | -20 | 0 | x \$18 | | \$ 0 |
| Indep. Claims | 2 | -3 | 0 | x \$80 | | \$ 0 |
| <u> </u> Multiple Dependent Claim(s), if any | | | | + \$270 | | \$ 0 |

TOTAL FILING FEE \$ 710.00

8. An extension of time in the above-named prior application has been requested and the fees therefore have been authorized in said application.
9. X Please charge Deposit Account No. 09-0108 in the amount of \$ 710.00 .

The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 09-0108.

A **duplicate** copy of this Request is enclosed.

10. X New formal drawings are enclosed.
11. X The prior application is assigned of record to Incyte Pharmaceuticals, Inc., recorded on January 5, 1998, at reel 9774/frame 0975.
12. A preliminary amendment is enclosed.

- | | |
|-----------------------------|------------------------|
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Docket No.: PF-0379-1 DIV #4

By: Nancy Ramos Printed: Nancy Ramos

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bandman, et al.

Title: HUMAN MITOCHONDRIAL MALATE DEHYDROGENASE

Serial No.: To Be Assigned

Filing Date: Herewith

Examiner: To Be Assigned

Group Art Unit: To Be Assigned

Official Draftsman

Commissioner for Patents

Washington, D.C. 20231

SUBMISSION OF FORMAL DRAWINGS

Sir:

Transmitted herewith are Figures 1A, 1B, 1C, 1D, 2A, 2B, 3A, 3B, 4A and 4B, as ten (10) sheets of formal drawings for this application. Each sheet of drawing indicates the identifying indicia suggested in 37 CFR Section 1.84(c) on the reverse side of the drawings.

Applicants believe that no fee is due with this paper. However, if the Commissioner determines that a fee is necessary, the Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. **09-0108**. **A duplicate copy of this communication is enclosed.**

If there are any questions regarding the above, the Examiner is invited to call the undersigned at 650-855-0555.

Respectfully submitted,
INCYTE GENOMICS, INC.

Date: 7/25/01

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